

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 21**

INTER-CON SECURITY SYSTEMS, INC.

Employer

and

Case 21-RC-20778

INTERNATIONAL UNION, SECURITY, POLICE AND FIRE  
PROFESSIONALS OF AMERICA, (SPFPA)

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was conducted before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned Regional Director.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act, and seeks to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c) (1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Unit A

All full-time, and regular part-time guards employed by the Employer at the Natural History Museum located at 900 Exposition Boulevard, Los Angeles, California and at the Page Museum at the La Brea Tar Pits, located at 5801 Wilshire Boulevard, Los Angeles; California, excluding all other employees and supervisors as defined in the Act.

Unit B

All full-time, and regular part-time guards employed by the Employer at the Los Angeles County Museum of Art located at 5905 Wilshire Boulevard, Los Angeles, California location; excluding all other employees, gallery attendants, professional employees and supervisors as defined in the Act.

**ISSUES:**

The first issue presented is whether the unit initially sought by the Petitioner consisting of all of the Employer's employees at all four facilities is an appropriate unit. The Employer contends that the petitioned-for unit is not an appropriate unit, and that any elections must be held in the units as stipulated by the parties.

The second issue presented is whether the attendants at the Los Angeles County Museum of Art (LACMA) and at the Peterson Automotive Museum (herein Peterson Museum), are guards. The Petitioner contends that the attendants are guards as defined in the Act; that they should be included in each stipulated unit; and that as a result, an election should be conducted among the employees in each unit, including the unit of employees at the Peterson Museum. The Employer avers that the attendants are not guards and that they should be excluded from each unit; that no appropriate unit exists at the Peterson Museum

which can be represented by the Petitioner; and that as a result, no election should be conducted at the Peterson Museum.

### **CONCLUSION:**

For the reasons discussed in detail below, based on the totality of the record, I conclude that the Petitioner has failed to carry its burden to establish that the overall unit is an appropriate unit. The separate units, as stipulated by the parties, and as demonstrated by the record, are the appropriate units. These units are: Unit A: The Natural History/Page Museum unit; and Unit B: The LACMA unit.

As to the composition of each unit, I find that the attendants employed at the LACMA and at the Peterson are not guards as defined in the Act, and they are therefore excluded. Finally, since there are no guards employed at the Peterson, there is no appropriate unit at that location which can be represented by Petitioner, and as a result, no election will be ordered to be conducted therein.

### **THE FACTS:**

The Employer provides security and other services at facilities in the Los Angeles, California area. There is no history of collective bargaining among any of the employees which are the subject of the instant petition.

The Employer employs guards and attendants who are assigned to four museums, all located in the Los Angeles metropolitan area: The Natural History Museum of Los Angeles County, located in South Central Los Angeles at 900 Exposition Boulevard; the Page Museum at the La Brea Tar Pits located at 5801 Wilshire Boulevard in West Los Angeles; the Los Angeles County Museum of Art (LACMA) located at 5905 Wilshire Boulevard in West Los Angeles, and the Peterson Automotive Museum located at 5050 Wilshire Boulevard, in West Los Angeles.

The record reflects that the Employer maintains separate contracts to provide services at the four noted museums. Each contract has a different time-frame, a different pay structure, different requirements for services, different expiration dates and were negotiated by different individuals on both sides of the contract. As the contracts are separately negotiated by the Employer, each contract maintains its own wage structure and specifications. There is no overlap among the three noted contracts and the record reflects that each contract is maintained by the Employer with separate lines of management and groups of employees.

### **The Natural History Museum and the Page Museum**

The first contract covers the Natural History Museum and the Page Museum. This contract requires the Employer to provide guard services at each location, and the record reflects that 18 guards are assigned to work at the Natural History Museum, and 4 guards are assigned to work at the Page Museum. Gallery attendants also work at these two museums; however, they are not employees of the Employer and they are not among the employees sought to be represented by the Petitioner. The Employer has one manager that oversees the guards at both the Natural History and Page museums. All of the hiring, firing and disciplining of guards is done by management that oversees these facilities.

At the hearing, the parties stipulated that the guards employed by the Employer at the Natural History Museum and at the Page Museum are guards, as defined in the Act, and that they constitute an appropriate unit for collective-bargaining purposes.

### **The Peterson Automotive Museum**

The second contract calls for the Employer to provide gallery attendants to the Peterson Automotive Museum and the record reflects that the Employer employs some 12 gallery attendants assigned to the Peterson.

The Peterson gallery attendants wear dark blue blazers with the Inter-Con insignia. There is no other identification on the blazer. These attendants provide direction, take tickets, and maintain visual surveillance of the exhibits. They do not directly protect any of the exhibits but are there to alert other agencies if there is a problem. When members of the public choose not to follow the rules, they are told to watch and report. If need be, they will direct the person to cease their conduct, but if the situation persists, the gallery attendants are required to contact their on-site manager. None of the attendants are equipped with guns, mace, or handcuffs. When issues arise requiring physical intervention or control, the attendants are instructed to call the police.

At the Peterson Museum, the Employer's gallery attendants are required to adhere to requirements established by the Peterson Museum and they are interviewed independently by Peterson's management. Peterson's management have the right to reject as unfit any of the employees assigned by the Employer to their facility.

The parties stipulated that if the Regional Director directed an election at the Peterson Museum, it would stand alone as a separate and appropriate unit.

### **The Los Angeles County Museum of Art (LACMA)**

The final contract calls for the Employer to provide both gallery attendants and guards at the LACMA. Thus, the Employer employs approximately 15 armed guards who wear security officer uniforms at LACMA. These guards wear badges and shields and patches which identify them as security guards as required by the State of California law<sup>1</sup>.

At LACMA, the Employer also employs approximately 100 gallery attendants. The record reflects that the function of the gallery attendants is to guide patrons, take tickets,

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<sup>1</sup> The State law governing the shield requirements for security officers is the California Business and Profession's Code.

point out directions, and help evacuate the public if there is an emergency. One attendant answers the phone for the museum. Another attendant is assigned to the information desk where information is dispensed. Both the phone attendant and the information desk attendant are instructed to just stand and be available if need be. In general, the gallery attendants are trained in all manner of tourist service assistance. They wear badges that say “ask me.”

The gallery attendants wear civilian-like clothing consisting of green blazers with just the words “Inter-Con” over the pocket. In addition to the blazers, the attendants wear slacks and neck ties.

In general, the gallery attendants receive the public. They visually monitor their assigned areas with an emphasis on patron satisfaction. They may ask people to stop running or talking loudly, and they may direct people to stairwells. If asked, the attendants will point members of the public in the right direction towards a requested exhibit. To facilitate this job function, management provides the gallery attendants with a daily briefing on details of the exhibits currently on display. These briefing sessions are not attended by the guards. These briefings might include instruction on the artists and the art on display, how to address and deal with people, and a description of the expected crowds for the day.

The Employer utilizes a "visitor service" document which is provided to the gallery attendants at their new-employee orientation. The record reveals that the visitor service document is prefaced with the admonition that their goal should be: “Whatever It Takes 100% Patron Satisfaction”.

The parties stipulated that among the duties of the gallery attendants, they are to at all times be polite to the public and to provide the public with directions on request. In the case of patron misbehavior, attendants are limited to telling individuals to “please stop.” Should the situation be out of the normal everyday occurrence or involve anything

physical, the attendants will call the guards who will send armed personnel. If a patron attempts to touch an art object, attendants are not to interfere; they are simply to call security (i.e. the guards).

The record reflects that the gallery attendants have no responsibility for enforcing work rules against other employees of the museum. Thus, gallery attendants have no authority to discipline other employees of the museum, nor do they provide any oversight of work performed by any other employees at the museum.

The record reveals that the Employer utilizes gallery attendants in three different groupings: The first grouping are those gallery attendants who are posted at the entrance to each of the exhibition buildings. These gallery attendants are responsible for controlling access to each building, and they maintain an access control logs during the hours of operation. In addition to the above-described functions, these gallery attendants are still required to greet all patrons courteously, as well as to provide assistance and direction upon request.

The second grouping is the relievers. These attendants provide break relief for other attendants, as required under California law. Thus, when one attendant leaves a post, another attendant comes in and substitutes for him or her.

The final grouping is the gallery attendants. These are persons stationed in the galleries. There is normally one gallery attendant positioned in the plaza to direct or guide people, and to answer patron questions. These attendants wear the same blazer worn by other gallery attendants.

There is a break room that is shared by all LACMA employees. There is another lunchroom that can be used by the general public. There is also a café where people

purchase food that is open to the public. There is a staff parking area for everybody who works at the LACMA.

There is no practice of interchange among officers and gallery attendants, when an individual from one or the other group is absent, as the guards and gallery attendants have different duties. Guards are summoned in the event of an altercation on the premises. Guards will patrol a gallery three or four times a shift by walking through it, but they do not provide customer service. The guards patrol the exterior perimeter, as well as the interior of the LACMA. One guard is provided with a bike to facilitate patrol of the exterior spaces including the parking garages. None of the attendants are required to utilize bikes. Guards are provided with keys to lock and unlock various parts of the facility, whereas the attendants are not provided keys to the facility

Training for the guards, provided by the Employer's corporate trainer, is separate and distinct from training provided to attendants. The training includes techniques and procedures as to the utilization of handcuffs, batons, and containment. The record discloses that the guards are paid substantially more than gallery attendants.<sup>2</sup> The record did not disclose any instance where a gallery attendant has transferred into a guard position.

Project Manager Dion Lewis is in charge of both guards and attendants who perform work at the LACMA. Below Lewis is Ron Tapia, assistant project manager, and a series of watch commanders. Tapia is also in charge of both guards and attendants.

The record discloses that there are watch commanders who supervise both guards and attendants. The Employer also utilizes gallery attendant supervisors who report to Dion. There is one integrated payroll system for both the attendants and the guards.

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<sup>2</sup> The armed guards make in excess of 40% more than gallery attendants.



Attendants carry radios similar to guards. Both the attendants and the security officers are connected to the dispatchers by radio.

### **Guard Cards**

The Employer requires that all gallery attendants at the LACMA obtain “guard cards,” which are also required of the guards. In the past, attendants have not had guard cards. The record reveals that the Employer instituted the requirement to insure that all of its employees, including the gallery attendants, obtain security clearances which are attendant to the issuance of the guard cards by the State of California. The record discloses that guard cards have no bearing on job function or security function, as they are issued to any applicant following the State's verification that the applicant has passed a background check and has valid identification. The record revealed that in addition to the guards and the gallery attendants, the Employer's accountant and the Employer's general counsel have been issued guard cards.

### **ANALYSIS AND DISCUSSION**

While the Board generally exercises wide discretion in determining bargaining units, it is limited by a basic rule provided in the Act. Section 9(b)(3) of the Act prohibits certification of a labor organization as the bargaining representative of a unit of guards if the organization “admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees, other than guards.” Section 9(b)(3) of the Act defines a guard as “any individual employed...to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer’s premises.”

## **Appropriate Bargaining Unit: The Multi-facility Unit**

The Board considers the single-facility unit to be presumptively appropriate.

*O'Brien Mem'l Inc.*, 308 NLRB 553 (1992); *Wyandotte Sav. Bank*, 245 NLRB 943 (1979).

The party seeking to overcome this presumption bears a heavy burden of showing that a single-facility unit is not appropriate. *Penn Color, Inc.*, 249 NLRB 1117, 1119 (1980);

*Hegins Corporation*, 255 NLRB 1236, 1236 (1981). The Board may find a multi-facility unit appropriate, however, where a high degree of functional integration exists among several separate facilities of the same employer. Factors that the Board considers in determining the appropriateness of a multi-facility unit include:

- Prior bargaining;
- Centralization of management, particularly with regard to labor relations;
- Extent of employee interchange;
- Degree of interdependence or autonomy among facilities;
- Difference or similarity in skills and functions of employees;
- Relative geographical location of the facilities.<sup>3</sup>

Here, there is no prior bargaining history involving the petitioned-for employees.

While management is centralized for the Natural History and Page Museums, Project

Manager Lewis is in charge of both guards and attendants at LACMA, while the Peterson

Museum is privately owned, has its own contract with the Employer and its own individual

manager. The employees are never exchanged or transferred between the various facilities.<sup>4</sup>

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<sup>3</sup> *J & L Plate*, 310 NLRB 429 (1993); *Trustees of Columbia Univ.*, 222 NLRB 309 (1976).

<sup>4</sup> The Employer did reassign one employee from one museum to another under highly unusual circumstances. When concerns were raised about possible sexual harassment, the Employer reassigned the employee to corporate headquarters in Pasadena. When a new museum position opened up, the employee sought this open position. He had to apply for the open position as any new applicant would by passing an interview, filling out an employment application and then being accepted at the new museum. The record does not reflect the individual's original museum or new museum location.

The various facilities are operated in an autonomous fashion according to the terms of their respective contracts.

Based on the record presented, it is concluded that the Petitioner has failed to establish that the petitioned-for overall unit is an appropriate unit so as to overcome the presumption that the single facility unit is appropriate. To the contrary, it is concluded that the petitioned-for overall unit, consisting of guards and attendants at the four noted museums, is not an appropriate unit for purposes of collective bargaining.

### **The Appropriate Units**

The next question becomes the nature of the appropriate unit(s) for collective-bargaining purposes. The parties stipulated that an appropriate unit at the Natural History and Page Museums would consist of all full-time and regular part-time guards employed by the Employer and that the Regional Director would exclude from that unit all other employees. The parties also stipulated that if the Regional Director directed an election in this case, the Peterson Museum would stand alone as a separate and independent unit.

The Employer has entered into three separate contracts with the Natural History and Page Museums, the LACMA, and the Peterson Museum. Due to the centralization of management along these lines, the lack of employee interchange among and between the three units, it's concluded that the separate units, as stipulated to by the parties and demonstrated by the record presented, are the appropriate units.

### **Natural History and Page Museums: Are the Employees Guards?**

The parties stipulated that the petitioned-for employees at the Natural History/Page Museums are guards as defined in the Act. The record presented herein supports the parties' stipulation. Thus, the guards employed at the Natural History and Page Museums are uniformed individuals and are considered guards or officers under State law.

The record reveals that these guards patrol, report, and observe; that they wear shields and patches which identify them as private security; and that they are characterized as unarmed guards. Based on the parties' stipulation, as well as the record herein, it is concluded that the employees sought to be represented by Petitioner at the Natural History and Page Museums are guards as defined in the Act, and that those employees constitute a unit appropriate for collective-bargaining purposes. I shall, therefore, order an election conducted in that unit of guards.

### **LACMA: The Guards**

Employees who are responsible for protecting the property of the employer or customers are deemed guards under the Act. *Wells Fargo Alarm Service*, 289 NLRB 562 (1988). However, not every employee whose job duties require in some sense the protection or safeguarding of property is a statutory guard. To this end, the Board has limited the granting of guard status to employees whose job duties “encompass the security-type functions generally associated with guards.” *BPS Guard Services, Inc.*, 300 NLRB 298, 300 (1990). Employees whose basic duties do not involve the direct and significant protection of property, but whose duties only encompass guard-like activities, are not considered guards within the meaning of the Act. *Tac/Temps and the Philadelphia Bottling Co.*, 314 NLRB 1142, 1143 (1994); see also *Purolator Courier Corp.*, 300 NLRB 812 (1990).

Here, several indicia indicate that the guards employed by the Employer at LACMA are guards as defined by the Act. First, they are armed. Second, they wear full-dress security uniforms replete with a security belts for guns, handcuffs, mace and extra ammunition. Third, they wear badges and shields as required by State law, including patches that identify them as private security. Fourth, they patrol the interior and the perimeter of the LACMA as their main job function, and they are summoned in the event of any altercation.

Finally, they are provided keys to lock and unlock various parts of the facility. Based on the record presented, noting that no party contends to the contrary, it is concluded that they are guards as defined in the Act.

**LACMA: Are the Attendants “Guards” As Defined In The Act?**

In *Hoffman Security*, 302 NLRB 922 (1991), the Board addressed the precise issue of whether receptionists in the petitioned-for unit were guards within the meaning of Section 9(b)(3) of the Act. The job duties of receptionists in that case were comparable to those of the petitioned-for gallery attendant employees herein. Specifically, the receptionists in *Hoffman* greeted visitors, provided information and directions, and observed and reported irregularities. The receptionists did not substitute for security officers during their absence or otherwise perform their functions. The receptionists did not receive any training with the security officers.

The *Hoffman* Board held that the receptionists were not guards within the meaning of Section 9(b)(3) of the Act. The Board based its ruling on several material facts. The record therein establishes that the receptionists’ primary functions were to merely greet visitors, provide information and directions, and observe and report irregularities. Any guard-like duties performed by the receptionists were incidental to their basic receptionist functions.

These factors cited by the Board in *Hoffman*, *supra*, likewise exist in this case. Specifically, the petitioned-for gallery attendants do not perform traditional security or police-type functions such as those performed by the security guards, as they do not patrol the premises.

The gallery attendants' job duties herein do not include any traditional guard tasks or responsibilities. Moreover, any protection of the Employer’s property by the gallery

attendants is incidental to their primary function of meeting and greeting, and assisting the public.

The Petitioner's reliance on cases involving "rule enforcement" to protect the public and property is misplaced. The cases cited by Petitioner are *Blue Grass Industries*, 287 NLRB 274 (1987); *Jakel Motors*, 288 NLRB 730 (1988); *Republic Aviation*, 106 NLRB 91<sup>5</sup> (1952); and *Thunderbird Hotel*, 144 NLRB 84 (1963).

*Blue Grass Industries* does not support the Petitioner's argument. First, the facts involved watchmen with duties which included making an hourly circuit and checking that doors were secure. They had the authority to prevent unauthorized persons from entering the plant, and at the job interviews for the watch and sweep positions, they were informed that the job entailed security duties and enforcement of plant safety rules. In contrast, the gallery attendants herein have no similar job duties or authority. The Employer herein does not require gallery attendants to "enforce the museum rules and regulations in a fair and firm manner." These duties are entrusted to the guards at LACMA.

*Jakel Motors* is also distinguishable from the instant case. The disputed individuals in *Jakel Motors* were "Night Custodians." However, their "Position Duties and Responsibilities" expressly noted security duties to be performed "as needed or assigned." The gallery attendants here are not given express responsibilities for security duties in their job description or job functions.

The Petitioner's reliance on *Republic Aviation* is also misplaced. The receptionists in *Republic Aviation* cleared visitors by checking with police headquarters. Gallery attendants in this case are not required to contact local police before admitting museum tourists. The receptionists in *Republic Aviation* checked employees taking sick

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<sup>5</sup> Petitioner erroneously cites the cases as 106 NLRB 1342 in its Post-Hearing Brief.

leave or other leave. In the present case, gallery attendants herein are not assigned to any similar functions. Receptionists in ***Republic Aviation*** were required to check all deliveries made to plant entrances. There is no such requirement imposed on gallery attendants herein. Finally, contrary to the situation herein, the patrolmen in ***Republic Aviation*** substituted for the receptionists.

Finally, the ***Thunderbird*** case is also distinguishable from the instant case. First, the disputed employees in ***Thunderbird*** were timekeepers and a clock man. These functions are far afield from the hospitality mission of gallery attendants. Second, the state law in ***Thunderbird*** required that security guards be deputized. Here, all manner of employees may secure “guard cards,” including accountants and the General Counsel for the Employer. That the attendants have recently acquired guard cards is more a function of management’s desire for background checks than security expertise or training.

Finally, the timekeepers in ***Thunderbird*** were hired by the Chief Security Officer to observe, among other duties, that employees clocked in and out. Attendants employed by the Employer herein have no obligation to police the clocking in and clocking out of other employees.

Given the material distinctions between the job duties and functions of the guards and attendants, it is concluded that the gallery attendants employed by the Employer at the LACMA are not guards as defined in the Act. As they are not guards, they are precluded from being represented by the Petitioner and they are also precluded from inclusion in the unit consisting of guards employed at the LACMA. ***Lion Country Safari***, 246 NLRB 156, 156 (1979).

## **The Petersen Museum: Are Attendants “Guards” As Defined In The Act?**

The final issue presented is whether the “attendants” at the Peterson Museum are “guards.” Under the Board’s standards noted above, the Act defines a guard as “any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the premises” Section 9(b)(3). Courier employees have been found not to be guards where they are not armed and have no authority to use weapons or force. *Purolator Courier Corp.*, 300 NLRB 812 (1990) (Part-time whistle man and flagmen who control traffic around movie sets, are not guards) *Delux Gen. Inc.*, 241 NLRB 229 (1979) See also *Hoffman*, supra (hospital receptionists, whose duties include greeting visitors, providing information, reporting irregularities and monitoring closed circuit TV's are not statutory guards.)

Here, the record establishes that the only Employer personnel employed at the Peterson Museum are designated as attendants. These attendants wear a dark blue blazer. None of the attendants have or carry guns, mace, handcuffs, or similar equipment. When issues arise requiring physical intervention or control, the attendants call the police. In the event of misconduct by members of the public, the attendants are limited to watching and reporting and asking the person to refrain from the misconduct. They are not empowered to intervene or physically confront the misbehaving individual.

Based on the record presented herein, it is concluded that the attendants employed at the Peterson Museum are not guards as defined in the Act. It is further concluded that there are no “guards” employed at the Peterson Museum and that accordingly, there is no unit which the Union can represent. No election will be directed among any unit of employees at the Peterson Museum.



## **Summary**

Elections will be ordered among the guards in two separate units: Unit A consists of the guards employed at the Natural History Museum and at the Page Museum. There are approximately 22 guards employed in Unit A. Unit B consists of the guards employed at the Los Angeles County Museum of Art. There are approximately 15 guards employed in Unit B.<sup>6</sup>

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the two units found appropriate at the times and places set forth in the Notices of Election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the units who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike, which commenced less than 12 months before the election date, employees engaged in such strike that have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who

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<sup>6</sup> Inasmuch as I have found units different than those requested by the Petitioner, in accordance with established Board practice, I shall allow the Petitioner 14 days from the date of the Decision and Direction of Election in which to perfect its 30-percent showing of interest in each of the two units. In the event the Petitioner does not establish a proper showing of interest in either of the units within the 14-day period, I shall dismiss the petition as to that unit, unless that portion of the petition is withdrawn. Should the Petitioner not wish to participate in an election in either of the two units found appropriate herein, it may withdraw its petition as to either of those two units, without prejudice, by giving notice to that effect to the Regional Director within 10 days from the date of this Decision and Direction of Election.

have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by **International Union, Security, Police and Fire Professionals of America, (SPFPA)**.

### **LIST OF VOTERS**

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, two copies of alphabetized election eligibility lists, for each unit involved herein, containing the full names and addresses of all eligible voters shall be filed by the Employer with the undersigned, who shall make the lists available to all parties to the election.<sup>7</sup> *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such lists must be received in Region 21, 888 South Figueroa Street, 9<sup>th</sup> Floor, Los Angeles, California 90017, on or before November 26, 2004. No extension of time to file the lists shall be granted, excepted in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirements here imposed.

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<sup>7</sup> The lists may initially be used by the Regional Director to assist in determining an adequate showing of interest in each of the appropriate units. The Regional Director shall make the lists available to the Petitioner when she shall have determined that an adequate showing of interest among the employees in each of the units found appropriate has been established.

### **NOTICE OF POSTING OBLIGATIONS**

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three (3) working days prior to the day of the election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20 (c) of the Board's Rules and Regulations requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notices. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notices.

### **RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations board, addressed to the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by 5:00 p.m., EST, on December 2, 2004.

DATED at Los Angeles, California, this 18th day of November 2004.

/s/ James F. Small

James F. Small

Acting Regional Director, Region 21  
National Labor Relations Board

